

REMARKS

Claims 1-27 are pending in the application. Independent claims 1, 13, 19, and 25 have been amended herein. Favorable reconsideration of the application, as amended, is respectfully requested.

I ALLOWABLE SUBJECT MATTER

Applicants acknowledge with appreciation the allowance of claim 12. For at least the reasons set forth below, it is respectfully submitted that other pending claims are also in condition for allowance.

II REJECTIONS OF CLAIMS 1-11, AND 13-27 UNDER 35 U.S.C. § 103

Claims 1-11, and 13-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over "DOCSIS" in view of U.S. Patent No. 5,939,887 ("Schmidt"). Applicants believe that all pending claims are allowable for at least the following reasons. Withdrawal of the rejections is respectfully requested.

One of the features recited in independent claims 1, 13, 19, and 25 is related to testing a cable network. During the telephonic interview with the undersigned on April 14, 2005 (Interview Summary dated April 20, 2005), the Examiner suggested that a claim amendment specifying that the first and second frequencies belong to different transmission channels would likely be distinguishable from the cited art. To expedite prosecution, independent claims 1, 13, 19, and 25 have been amended accordingly. Specifically, independent claim 1 recites, *inter alia*, that "the first and second frequencies belong to different transmission channels." Other independent claims contain recitations similar to those of claim 1. All of the limitations recited in claims 1, 13, 19, and 25 are described throughout the present specification (some pertinent discussion is found at page 2, line 33 - page 4, line 4, Fig. 6, and originally filed claim 27). Thus, no new matter has been introduced by the claim amendments.

Applicants believe that the above-identified feature recited in independent claims 1, 13, 19, and 25, i.e., the first and second frequencies belong to different transmission channels, is very clearly patentable over the cited art. For example, a DOCSIS ranging request merely uses an offset frequency adjustment, which is a relatively small deviation from the center frequency. Such an offset frequency adjustment cannot be interpreted as covering two different transmission channels as claimed.

By contrast, independent claims 1, 13, 19, and 25 require measuring/recording information at first and second frequencies which belong to different transmission channels. Therefore, it is respectfully submitted that a general description regarding a ranging request

using an offset frequency adjustment does not affect the patentability of independent claims 1, 13, 19, and 25.

The Schmidt patent was cited as describing use of a spectrum analyzer. Schmidt has been reviewed, and it is believed to fail to teach or suggest the claimed measurements at two frequencies belonging to different transmission channels. Therefore, the Schmidt patent fails to overcome the deficiencies of DOCSIS.

In summary, Applicants find nothing in the prior art that suggests the claimed test transmission during live data transmission. Therefore it is respectfully submitted that the invention defined in independent claims 1, 13, 19, and 25, and their dependent claims, is patentable over the cited art. Withdrawal of the rejections is respectfully requested.

III. CONCLUSION

Applicants believe that all pending claims are in condition for allowance, and respectfully request a Notice of Allowance at an early date. If the Examiner has any continuing concerns about patentability of the claimed invention, he is encouraged to telephone the undersigned at 510-663-1100, ext 245.

Respectfully submitted,
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Limited Recognition under 37 CFR § 10.9(b)

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